

REMARKS/ARGUMENT

Claims 1 and 3 have been amended by incorporating the subject matter of claim 17 into them. Accordingly, claim 17 has been canceled.

The dependency of the remaining claims has also been amended as appropriate.

Composition claims 20-22, 30 and 34-47 have been canceled.

Claims 1-3, 18, 19 24-29, 31-33, 48 and 49 are currently pending.

The Office Action rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 5,879,684 (“Fox”) in view of U.S. patent 5,468,477 (“Kumar”). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

The pending claims require the presence of a monomer and/or polymer having a carboxylic acid group. This difference is significant because Kumar’s example 27, upon which the Office Action has focused, contains ethylhexyl methacrylate and butyl methacrylate. Thus, example 27 contains a different polymer than is required by the pending claims. Stated another way, example 27 neither teaches nor suggests the claimed polymers, so it cannot teach or suggest the claimed methods. For at least this reason Applicants submit that the pending rejection is improper and should be withdrawn.

Moreover, and particularly in view of this failure to disclose carboxylic acid containing monomers and/or polymers, it is clear that combination of the applied references does not constitute a *prima facie* case of obviousness. The Office has previously recognized that Fox does not relate in any way to the claimed polymers. Thus, nothing in Fox teaches or suggests using an effective amount of the claimed grafted silicone polymers having a carboxylic acid

group to reduce cutaneous signs of aging. Furthermore, Fox relates to tensor agents, and tensor agents are different from film-forming agents. That is, not all tensor agents are film-forming agents, and *vice versa*. Thus, Fox's disclosure concerning tensor agents neither teaches nor suggests any utility for Kumar's film-forming different polymers, let alone the polymers required by the present invention. Accordingly, the combination of Fox and Kumar cannot yield the claimed invention.

Furthermore, to support this rejection, the Office Action has taken the position that because Kumar's film-forming polymers were known to have certain properties with respect to hair care, using such polymers to reduce signs of cutaneous aging would have been obvious. That is, the Office Action has apparently taken the position that Kumar's disclosing the use of film-forming polymers for treating hair would render obvious all other, completely different uses of such polymers. This is certainly not the law, nor could it possibly be the law - under such an interpretation, method of use claims directed to novel uses of existing compounds would never be patentable because the compounds were already known. It is well-settled that new uses of existing compounds are entitled to patent protection. Such a novel use of known polymers is what the claims of the present application are directed to -- the pending claims directed to reducing cutaneous signs of aging cannot be taught or suggested by the applied art which is directed to completely different uses.

In view of the above, Applicants respectfully submit that no *prima facie* case of obviousness exists.

However, even assuming a *prima facie* case of obviousness has been set forth, the surprising and unexpected results associated with the claimed invention are more than

sufficient to rebut any such hypothetical *prima facie* case of obviousness. Specifically, as detailed in the Rule 132 declaration submitted with Applicants' September 20, 2006, response, invention compositions possessed significantly higher tensioning effect than comparative compositions, and this vast difference in tensioning effect among the different polymers was surprising and unexpected given the similarity of the compositions and the similarity of the moieties in the polymers.

The Rule 132 declaration submitted May 14, 2008, further demonstrates the superior properties associated with the claimed invention. This declaration, too, demonstrates that that the invention polymers provide significant tensioning action.

In view of the above, Applicants respectfully submit that a sufficient showing of unexpected and surprising results has been made to overcome any hypothetical case of *prima facie* case of obviousness which may exist. Nothing in any of the applied art teaches or suggests using the effective amounts of the claimed polymers with the intent of reducing cutaneous signs of aging/wrinkles, let alone that the claimed polymers would possess surprising and unexpected properties in this regard. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

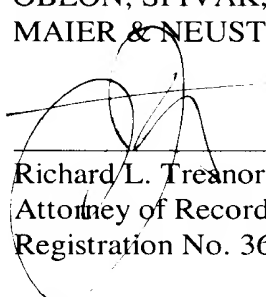
The Office Action also rejected claim 34 under the judicially created doctrine of double patenting over claims 1, 16 and 27-29 of U.S. patent 6,022,836 ("the '836 patent"). In view of the cancellation of claim 34, Applicants respectfully request reconsideration and withdrawal of this rejection.

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Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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